

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

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Natasha Van Duser, Jackson Lea, Charlotte Mason, Tristan Hsu, Morgann Daniels, America Rose Marvelous Herve, Ryan Mickelsen, Kayl Ward, Stephanie Ospina, Zoë Fromer, Nicole Irrizarry and Julieta Winters, *individually and on behalf of all others similarly situated*,

Plaintiffs,

-against-

Tozzler Ltd. d/b/a Niagara NYC and Lovers of Today, Lapizza Shop, inc., d/b/a 96 Tears, Berlin and Cabin Down Below, Bowery Tech Restaurant LLC d/b/a Bowery Electric, Jonathan Toubin, Joshua Yerington a/k/a “Johnny T”, Jesse Malin, and Laura McCarthy, Jointly and Severally,

Defendants.
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Case No.: 23-cv-09329

Hon. Arun Subramanian,
U.S.D.J.

NOTICE OF MOTION

PLEASE TAKE NOTICE that upon the annexed Memorandum of Law dated June 5, 2024, together with the supporting declaration of Jason Mizrahi (the “Mizrahi Decl.”) and the exhibits annexed thereto, Defendants Tozzler Ltd., Lapizza Shop, Inc., Bowery Tech Restaurant LLC, Jonathan Toubin, Joshua Yerington a/k/a “Johnny T”, Jesse Malin, and Laura McCarthy (collectively, the “Defendants”), by and through their attorney Levin-Epstein & Associates, P.C. will move this Court, the Honorable Judge Arun Subramanian presiding, for an order granting Defendants’ motion to dismiss the first amended complaint, filed on May 17, 2023 [Dckt. No. 39] (the “Amended Complaint” or the “FAC”) by Plaintiffs Natasha Van Duser, Jackson Lea, Charlotte Mason, Tristan Hsu, Morgann Daniels, America Rose Marvelous Herve, Ryan Mickelsen, Kayl Ward, Stephanie Ospina, Zoë Fromer, Nicole Irrizarry and Julieta Winters (collectively, the “Plaintiffs”), pursuant to Federal Rule of Civil Procedure (“Fed.R.Civ.P.”)

12(b)(1), 12(b)(6), and 12(h)(3) (the “Motion to Dismiss”), and for such other and further relief as the Court deems just and proper.

PLEASE TAKE FURTHER NOTICE that answering papers, if any, must be served on or before June 19, 2024, and Defendants’ reply must be served on or before June 26, 2024.

Dated: New York, New York
June 5, 2024

Respectfully Submitted,

LEVIN EPSTEIN & ASSOCIATES, P.C.

/s/ Jason Mizrahi
Jason Mizrahi, Esq.
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Attorneys for Defendants

Cc: All parties via ECF